

MONTANA LEGISLATIVE HISTORY

Chapter 580 19 77

Bill H 79 S \_\_\_\_\_

Original bill & history Xc

H. Committee on Judiciary

Hearing Date(s) Jan 13 \_\_\_\_\_c

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Date Out Jan 13 ✓c

S. Committee on Judiciary

Hearing Date(s) Mar 04 ✓c

Apr 19 ✓c

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Apr 19 ✓c

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Did this bill originate in an interim committee? \_\_\_\_Yes \_\_\_\_No

Committee \_\_\_\_\_

Report \_\_\_\_\_

1 HB BILL NO. 79  
2 INTRODUCED BY Scully Vincent Ryan  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT DISTRICT  
5 JUDGES TO SENTENCE PERSONS CONVICTED OF FELONIES TO  
6 IMPRISONMENT WITH NO POSSIBILITY OF PAROLE OR PARTICIPATION  
7 IN THE PRISONER FURLOUGH PROGRAM; AMENDING SECTIONS 95-2206,  
8 95-2220, and 95-3214, R.C.M. 1947."  
9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
11 Section 1. Section 95-2206, R.C.M. 1947, is amended to  
12 read as follows:  
13 "95-2206. Sentence. (1) Whenever any person has been  
14 found guilty of a crime or offense upon a verdict or a plea  
15 of guilty the court may:  
16 (i) ~~Defer~~ defer imposition of sentence for a period  
17 not to exceed ~~one~~ one year for any misdemeanor ~~or~~ for a  
18 period not to exceed ~~three~~ three years for any felony. The  
19 sentencing judge may impose upon the defendant any  
20 reasonable restrictions or conditions during the period of  
21 the deferred imposition. Such reasonable restrictions or  
22 conditions may include:  
23 (i) jail base release;  
24 (ii) jail time not to exceed ninety (90) days;  
25 (iii) conditions for probation;

1 (iv) restitution;  
2 (v) any other reasonable conditions deemed  
3 necessary for rehabilitation or for the protection of  
4 society;  
5 (vi) any combination of the above.  
6 (b) Suspend ~~suspend~~ execution of sentence up to the  
7 maximum sentence allowed for the particular offense. The  
8 sentencing judge may impose on the defendant any reasonable  
9 restrictions during the period of suspended sentence. Such  
10 reasonable restrictions may include:  
11 (i) jail base release;  
12 (ii) jail time not to exceed (90) days;  
13 (iii) conditions for probation;  
14 (iv) restitution;  
15 (v) any other reasonable conditions deemed  
16 necessary for rehabilitation or for the protection of  
17 society;  
18 (vi) any combination of the above.  
19 If any restrictions or conditions are violated, any  
20 elapsed time, except jail time, shall not be a credit  
21 against the sentence, unless the court shall otherwise  
22 order.  
23 (c) impose ~~impose~~ a fine as provided by law for the  
24 offense;  
25 (d) Commit ~~commit~~ the defendant to a correctional

INTRODUCED BILL

HB 79

1 institution with or without fine by law for the offense;

2 ~~(5)(e)~~ impose ~~impose~~ any combination of subsections

3 ~~(2)-(3)-or-(4)-above (1)(b), (1)(c), and (1)(d).~~

4 ~~(6)(2)~~ The district court may also impose any of the

5 following restrictions or conditions on the above sentence

6 which it deems necessary to obtain the objective of

7 rehabilitation and the protection of society:

8 (a) prohibit the defendant the right to hold public

9 office;

10 (b) prohibit the defendant the right to own or carry a

11 dangerous weapon;

12 (c) prohibit freedom of association;

13 (d) prohibit freedom of movement;

14 (e) any other limitation reasonably related to the

15 objectives of rehabilitation or the protection of society.

16 (3) Whenever the district court imposes a sentence of

17 imprisonment in the state prison for a term exceeding 1

18 year, the court may also impose the restriction that the

19 defendant be ineligible for parole and participation in the

20 prisoner furlough program while serving his term. If such a

21 restriction is to be imposed, the court shall state the

22 reasons for it in writing. If the court finds that the

23 restriction is necessary for the protection of society, it

24 shall impose the restriction as part of the sentence and the

25 judgment shall contain a statement of the reasons for the

1 restriction.

2 ~~(7)(4)~~ The judge in the justice court shall not have

3 the authority to restrict an individual's rights as

4 enumerated in ~~subsection-(6)~~ subsections (2) and (3).

5 (5) Any judge who has suspended the execution of a

6 sentence or deferred the imposition of a sentence of

7 imprisonment under this section, or his successor, is

8 authorized thereafter, in his discretion, during the period

9 of such suspended sentence or deferred imposition of

10 sentence to revoke such suspension or impose sentence and

11 order such person committed, or may, in his discretion,

12 order the prisoner placed under the jurisdiction of the

13 state board of pardons as provided by law, or retain such

14 jurisdiction with this court. Prior to the revocation of an

15 order suspending or deferring the imposition of sentence,

16 the person affected shall be given a hearing."

17 Section 2. Section 95-2220, R.C.M. 1947, is amended to

18 read as follows:

19 "95-2220. Application for participation in furlough

20 program. Any prisoner confined in the state prison ~~except a~~

21 prisoner serving a sentence imposed under 95-2206(3) may

22 make application to participate in the furlough program at

23 least by the time the inmate has served one-half ~~(1/2)~~ of

24 the time required to be considered for parole."

25 Section 3. Section 95-3214, R.C.M. 1947, is amended to

1 read as follows:

2 "95-3214. Parole authority and procedure. (1) The  
3 board shall release on parole, by appropriate order, any  
4 person confined in the Montana state prison, except persons  
5 under sentence of death and persons serving sentences  
6 imposed under 95-2206(3), when in its opinion there is  
7 reasonable probability that the prisoner can be released  
8 without detriment to himself or to the community, provided:

9 (a) ~~That that~~ no convict serving a time sentence shall  
10 may be paroled until he has served at least one-quarter  
11 ~~(1/4)~~ of his full term, less good time allowances off, as  
12 provided in section 80-1905; except that no convict  
13 designated a persistent felony offender under section  
14 95-2206.5 may be paroled until he has served at least  
15 one-third ~~(1/3)~~ of his full term, less good time allowances  
16 off, as provided in section 80-1905. A first offender  
17 serving a time sentence may be paroled after he has served,  
18 upon his term of sentence, ~~twelve-and-one-half-(12 1/2)~~  
19 years. A persistent felony offender as defined in section  
20 95-2206.5 may be paroled after he has served, upon his term  
21 of sentence, ~~seventeen-and-one-half-(17 1/2)~~ years.

22 (b) ~~No~~ no convict serving a life sentence shall may be  
23 paroled until he has served ~~thirty-(30)~~ years, less the good  
24 time allowances off, as provided in section 80-1905.

25 (2) Within ~~two-(2)~~ months after his admission and at

1 such intervals thereafter as it determines, the board shall  
2 consider all pertinent information regarding each prisoner,  
3 including the circumstances of his offense, his previous  
4 social history and criminal record, his conduct, employment,  
5 and attitude in prison, and the reports of and physical and  
6 mental examinations which have been made.

7 (3) Before ordering the parole of any prisoner, the  
8 board shall interview him. A parole shall be ordered only  
9 for the best interest of society, not as an award of  
10 clemency or a reduction of sentence or pardon. A prisoner  
11 shall be placed on parole only when the board believes that  
12 he is able and willing to fulfill the obligations of a  
13 law-abiding citizen. Every prisoner while on parole shall  
14 remain in the legal custody of the institution from which he  
15 was released, but shall be subject to the orders of the  
16 board.

17 (4) The board may adopt other rules it considers  
18 proper or necessary, with respect to the eligibility of  
19 prisoners for parole, and the conduct of parole hearings or  
20 conditions to be imposed upon parolees. When an order for  
21 parole is issued, it shall recite the conditions thereof."

-End-

REPRESENTATIVE RAMIREZ, wondered if we might not get into a patchwork and we should consider all these bills together.

REPRESENTATIVE HOLMES asked how the work furlough program is now funded. Representative Dussault explained the program and how it works. She felt there should be a study to revise the criminal system. She made a motion to amend out the furlough program. The motion was seconded and called and the motion failed, with Representatives Holmes and Dussault voting yes.

REPRESENTATIVE HOLMES moved to pass for the day to allow time for further study. The motion was seconded and called and the motion failed.

REPRESENTATIVE RAMIREZ made a motion to amend subsection 3, line 25, page 3. Following line 24, strike: judgement and insert: judgment. This would correct the spelling of the word judgment. The motion carried with unanimous vote.

After some discussion it was decided to postpone action until later that day on House Bill #79.

CHAIRMAN SCULLY appointed a sub-committee to study House Bills #80, 91 and 92, all dealing with landlord and tenant relationships. The committee as appointed were: Representative Teague, Chairman, Representative Dussault, Representative Seifert and Representative Colburn.

Representative Seifert moved "Do Pass" on House Bill #72. The motion was seconded and the question called. The motion carried with a unanimous vote.

REPRESENTATIVE HAND moved that House Bill #22 be amended as follows: (copy attached).

The amendments carried with unanimous vote.

REPRESENTATIVE KEYSER made a motion that House Bill #22 "Do Pass" as amended. The motion was seconded, question called and the motion carried with note unanimous.

REPRESENTATIVE DUSSAULT made a motion that House Bill #39 "Do Pass". The motion was seconded, question called, and the motion passed with the note unanimous.

REPRESENTATIVE LORY made a motion to "Do Pass" as amended on House Bill 79. The motion was seconded and the question called. Carried with Kennerly, Courtney, Dussault and Holmes voting "No".

Committee staff attorney, Jim Gardner, reported back on House Bill #43. He explained that an attorney is not a judicial officer. Page 17 lines 8. Pages 17, 9 and 13. Who may be impeached? Heads of the departments are subject to impeachment.

Meeting adjourned 11:35 A. M.

JUDICIARY COMMITTEE

January 13, 1977

The regularly scheduled meeting of the House Judiciary Committee convened at 8 A. M. with Chairman Scully presiding. All members present with the exception of Colburn and Dussault, absent.

Scheduled for hearing were House Bills 72, 77 and 79. House Bill #77 was cancelled because the fiscal note was not yet available.

HEARING OPENED on House Bill 79. Nice-chairman Teague took over the meeting.

REPRESENTATIVE SCULLY, District #76, Sponsor. He explained the basic background for it and the reasoning behind it. This bill will allow district judges to sentence persons convicted of felonies to imprisonment with no possibility of parole or participation in the prisoner furlough. There would be a mandatory minimum. He mentioned that in Montana someone could be sentenced and be back on the street in a short time. He could end up serving only 1/5 of the sentence. He mentioned that Pat Ryan of Great Falls, a probation officer, was highly in support of this bill.

A judge can have three alternative. 1. raise the sentence, 2. lower the sentence, and 3. leave it as it is. Montana has done all three, but for the most part, they stay the same. I don't believe in a mandatory sentence, but this is one way to cover the alternatives.

He gave examples of actual cases, the use of a weapon, etc. Obviously there is a problem in that there are no two situations alike, and it's obvious that discretion has to be used.

It would require the district judge to give mandatory flat time sentencing. You have to look at the process. The other alternative is to do away with the penalty form of system.

This is the only sentencing measure that makes sense. I hope you give it a great deal of thought and consideration. He talked about the sentence review board and explained how it works.

REPRESENTATIVE KENNERLY asked if it gives the judge more authority to do more straight sentencing.

REPRESENTATIVE SCULLY answered that they recognized that problem. There are also a lot of social and economic problems that went into that also.

The system is not infallible, but when you have a sentence review board, that process is a sufficient safeguard, and review is getting to be almost automatic. He gave examples of actual cases from his own experience.

He mentioned that a pre-sentence hearing can be requested by the judge, the individual or the board. He mentioned the cost of the proper funding and the problem of trying cases.

There was comment about another similar bill introduced in the Senate by Senator Towe and Representative Scully and it was a mandatory sentencing bill.

REPRESENTATIVE HOLMES said about the Towe bill, that rather than having a parole board, it would be a service agency that would help the person ease his way back into society. It was again noted, that the sentence review board was the final check.

OPPONENT REPRESENTATIVE KIMBLE, he stated that he feels we have to be careful, especially in those areas that allow discretion to the judge. It creates a precedent in the state that might be difficult to overturn.

REPRESENTATIVE SCULLY made the comment that this is not a mandatory bill.

Hearing closed on House Bill #79.

HEARING OPENED On House Bill #72.

REPRESENTATIVE RAMIREZ, Chief Sponsor, district #64. This bill requires a sheriff or constable to post notice of sale upon the request of a trustee in the case of a foreclosure of a trust indenture. He discussed the bill and explained the various sections.

REPRESENTATIVE KEYSER asked who will pay the cost of the posting and Representative Ramirez stated that there is a general fee arrangement to take care of this. The sheriff will post it on the property to be sold.

There were no other proponents or opponents.

Hearing closed on House Bill #72.

#### JUDICIARY COMMITTEE

#### EXECUTIVE SESSION

The committee went into Executive Session following the regularly scheduled meeting January 11, 1977. Chairman Scully presiding.

REPRESENTATIVE KEYSER moved that House Bill #79 "Do Pass". The motion was seconded, discussion followed.

There was some speculation what this bill would actually do. CHAIRMAN SCULLY said this is the only bill that deals with flat time, or fixed time. This bill does not conflict with any other bill that has been introduced.

REPRESENTATIVE RAMIREZ, wondered if we might not get into a patchwork and we should consider all these bills together.

REPRESENTATIVE HOLMES asked how the work furlough program is now funded. Representative Dussault explained the program and how it works. She felt there should be a study to revise the criminal system. She made a motion to amend out the furlough program. The motion was seconded and called and the motion failed, with Representatives Holmes and Dussault voting yes.

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Meeting adjourned 11:35 A. M.



MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
March 4, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, at 9:35 a.m. on the above date in Room 442 of the State Capitol Building.

ROLL CALL:

All committee members were present except Senator Murray who was excused.

WITNESSES PRESENT TO TESTIFY:

Rep. John Scully - District 76, Bozeman  
Tom Honzel - County Attorneys Assn.  
Ray Stuart - Court Administrator, Montana Supreme Court  
Pat McKittrick - Judges Assn.

CONSIDERATION OF HOUSE BILL 79:

Rep. John Scully of Bozeman, sponsor of the bill, said that it concerns the sentencing procedure on felony convictions and that this bill would deal with the problem of previous offenders and first time ones because the circumstances usually differ. He further said that a flat time sentenced individual would not be eligible for any parole such as we have today. He told the committee that an individual's background should be looked at before sentencing and that this is not mandatory. This bill calls for the judge to make his findings in writing subject to a review board. He said that H.B. 79 passed the House with overwhelming support and has not gone to the Appropriations Committee because there is no way a fiscal note could be figured for it. He further told the committee that the chief justice had lobbied to not have any change in their justice system until it was studied.

The first proponent of this bill was Tom Honzel, representing the County Attorney's Assn., who said that they support this bill and that they do not think it would have an impact on the prison system. He further said that the sentencing judge should have the authority to impose a sentence and that, if there is a jury trial, the sentencing judge has the opportunity to study all the data from the trial.

Ray Stuart, court administrator of the Supreme Court, testified as a "friend of the committee" rather than as an opponent. He said that they are interested in the bill because they fear that it will fill the prisons.

Rep. Scully at this time said he liked the bill because it allows sentencing at the district court levels.

Senator Olson moved to amend page 3, line 18, following "also", by inserting "upon a specific finding that it is necessary for the

protection of society"; and to further amend page 3, line 20, following "term" by inserting "or any portion thereof". The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 202:

Representative Scully, sponsor of this bill, said that there is no magic in the figures he proposes to raise the liability of parents to for malicious destruction by children. He thought that \$1,500 appeared to be a logical figure, but would have no objection if the committee decided to amend it. However, he does not think it should go up very much. He said that he had basically introduced H.B. 202 at the request of the probation officers throughout the state who have been faced with the problem of restitution.

There were no opponents to H.B. 202 present.

Senator Towe moved that H.B. 202 BE CONCURRED IN. The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 499:

Rep. Scully as sponsor of this bill told the committee that it deals with the increase of court fees at the district court level. The increase of \$10 to \$35 was objected to by people in Legal Services. He reminded them that people had the right to invoke the pauper's right. He said that the court costs have risen a lot in the past nine years, but that the fees have not been raised. He said that the suggested fees are very much in line with other states and that most states are on the \$35 fee for complaints. He said further that one-fourth of the fees collected would go back to the counties' operation of the court system, but that varies a lot in different counties. There will not be a windfall to the judges' retirement system if this bill is passed.

Pat McKittrick, a former representative who was appearing on behalf of the Judges' Assn., said that Mr. Cavin of Billings was also representing them, and that they were concerned about the setting of salaries. He told the committee that \$4 million dollars approximately is spent in Montana each year out of Montana taxpayers' money for litigation. He said that this bill addresses that there should be a reasonable charge to those 5% who use the court litigation process each year. He gave the committee an exhibit containing the scheduling of fees in several states. (See Exhibit 1)

The next proponent was Ray Stuart, court administrator for the Montana Supreme Court, who said that there has been a fiscal note prepared for this and similar bills, and that, actuarially speaking, the judges' retirement fund was getting in trouble. The fund was about \$70,000 behind itself then. The fund should be based on a portion of the salaries.

There were no opponents present.

MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
April 19, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, at 3:45 p.m. on the above date in Room 442 of the State Capitol Building.

ROLL CALL:

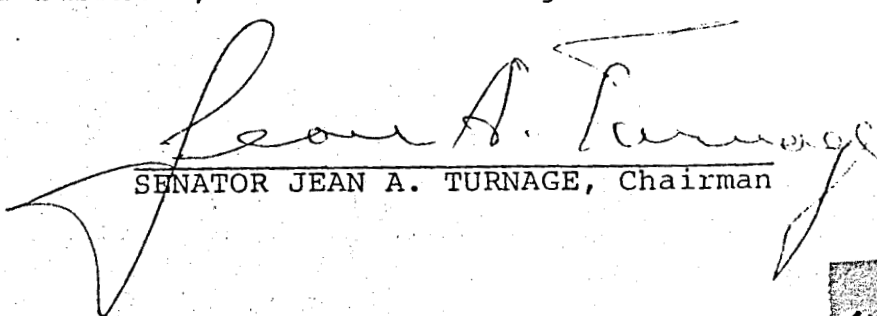
All members of the committee were present except Senators Regan and Roberts who were attending another meeting.

EXECUTIVE SESSION

After discussion by committee members, the following bill was acted upon in Executive Session this day:

HB 79 - Sen. Murray moved that HB 79 BE CONCURRED IN. The motion carried unanimously.

There being no further business, the committee adjourned at 3:55 p.m..

  
SENATOR JEAN A. TURNAGE, Chairman

4-

**"68-1410. State's contribution.** (1) *Each month the state treasurer shall pay to the account, out of the department of fish and game moneys in the earmarked revenue fund, a sum equal to 7% of the total of all members' salaries and, out of the moneys collected as fines and forfeited bonds under the provisions of 26-121, a sum equal to 4% of the total of all members' salaries.*

(2) *The board may assess and the department of administration shall collect a fee from the department of fish and game for the purpose of defraying the expenses of administering this act. The fee may not exceed .3% of the total of all members' salaries."*

Section 2. Section 68-1417, R.C.M. 1947, is amended to read as follows:

**"68-1417. Payments upon employment-related death.** If the board finds that a contributor died as a direct and proximate result of injury received in the course of his employment, a retirement allowance shall be paid to his beneficiary, consisting of:

(1) a member's annuity which is the actuarial equivalent of the contributor's accumulated deductions; and

(2) a state annuity which, when added to the member's annuity, will provide a total annuity equal to 50% of the final salary of the contributor, less the amount which is paid to the beneficiary under the Workers' Compensation Act of the state of Montana during the period such compensation is paid or payable."

Approved May 13, 1977.

## CHAPTER NO. 579

AN ACT REDEFINING CHIROPRACTIC AND PROVIDING THAT NO MEMBER OF THE BOARD MAY BE APPOINTED FOR MORE THAN TWO CONSECUTIVE TERMS; AMENDING SECTIONS 66-507 AND 82A-1602.7, R.C.M. 1947.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. Section 66-507, R.C.M. 1947, is amended to read as follows:

**"66-507. Definition of chiropractic.** (1) *Chiropractic is the system of specific adjustment or manipulation of the articulations and tissues of the body, particularly of the spinal column, for the correction of nerve interference and includes the use of recognized diagnostic and treatment methods as taught in chiropractic colleges, but does not include surgery or the prescription or use of drugs.*

(2) *Licensed chiropractors may diagnose, palpate, and treat the human body by the application of manipulative, manual, mechanical, and dietetic methods, including chiropractic physiotherapy, the use of supportive appliances, analytical instruments, and diagnostic x-ray in accordance with*

*guidelines promulgated or approved by state or federal health regulatory agencies."*

Section 2. Section 82A-1602.7, R.C.M. 1947, is amended to read as follows:

**"82A-1602.7. Board of chiropractors — appointment — qualifications — term.** (1) There is a board of chiropractors.

(2) The board consists of three (3) members appointed by the governor. The members shall be practicing chiropractors of integrity and ability who shall be residents of this state, and who have practiced chiropractic continuously in this state for at least one (1) year. No two (2) members shall be graduates of the same school or college of chiropractic.

(3) Each member shall serve for a term of three (3) years. *No member may be appointed for more than two consecutive terms.* A member may be removed from office by the governor on sufficient proof of the member's inability or misconduct."

Approved May 13, 1977.

## CHAPTER NO. 580

AN ACT TO PERMIT DISTRICT JUDGES TO SENTENCE PERSONS CONVICTED OF FELONIES TO IMPRISONMENT WITH NO POSSIBILITY OF PAROLE OR PARTICIPATION IN THE PRISONER FURLOUGH PROGRAM; AMENDING SECTIONS 95-2206, 95-2220, AND 95-3214, R.C.M. 1947.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. Section 95-2206, R.C.M. 1947, is amended to read as follows:

**"95-2206. Sentence.** (1) Whenever any person has been found guilty of a crime or offense upon a verdict or a plea of guilty the court may:

(a) *defer imposition of sentence for a period not to exceed 1 year for any misdemeanor or for a period not to exceed 3 years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Such reasonable restrictions or conditions may include:*

(i) *jail base release;*

(ii) *jail time not to exceed 90 days;*

(iii) *conditions for probation;*

(iv) *restitution;*

(v) *any other reasonable conditions deemed necessary for rehabilitation or for the protection of society;*

(vi) any combination of the above.

(b) *suspend* execution of sentence up to the maximum sentence allowed for the particular offense. The sentencing judge may impose on the defendant any reasonable restrictions during the period of suspended sentence. Such reasonable restrictions may include:

(i) jail base release;

(ii) jail time not to exceed 90 days;

(iii) conditions for probation;

(iv) restitution;

(v) any other reasonable conditions deemed necessary for rehabilitation or for the protection of society;

(vi) any combination of the above.

If any restrictions or conditions are violated, any elapsed time, except jail time, shall not be a credit against the sentence, unless the court shall otherwise order.

(c) *impose* a fine as provided by law for the offense;

(d) *commit* the defendant to a correctional institution with or without fine by law for the offense;

(e) *impose* any combination of subsections (1)(b), (1)(c), and (1)(d).

(2) The district court may also impose any of the following restrictions or conditions on the above sentence which it deems necessary to obtain the objective of rehabilitation and the protection of society:

(a) prohibit the defendant the right to hold public office;

(b) prohibit the defendant the right to own or carry a dangerous weapon;

(c) prohibit freedom of association;

(d) prohibit freedom of movement;

(e) any other limitation reasonably related to the objectives of rehabilitation or the protection of society.

(3) *Whenever the district court imposes a sentence of imprisonment in the state prison for a term exceeding 1 year, the court may also impose the restriction that the defendant be ineligible for parole and participation in the prisoner furlough program while serving his term. If such a restriction is to be imposed, the court shall state the reasons for it in writing. If the court finds that the restriction is necessary for the protection of society, it shall impose the restriction as part of the sentence and the judgment shall contain a statement of the reasons for the restriction.*

(4) The judge in the justice court shall not have the authority to restrict an individual's rights as enumerated in subsections (2) and (3).

(5) Any judge who has suspended the execution of a sentence or

deferred the imposition of a sentence of imprisonment under this section, or his successor, is authorized thereafter, in his discretion, during the period of such suspended sentence or deferred imposition of sentence to revoke such suspension or impose sentence and order such person committed or may, in his discretion, order the prisoner placed under the jurisdiction of the state board of pardons as provided by law or retain such jurisdiction with this court. Prior to the revocation of an order suspending or deferring the imposition of sentence, the person affected shall be given a hearing."

Section 2. Section 95-2220, R.C.M. 1947, is amended to read as follows:

**"95-2220. Application for participation in furlough program.** Any prisoner confined in the state prison *except a prisoner serving a sentence imposed under 95-2206(3)* may make application to participate in the furlough program at least by the time the inmate has served one-half of the time required to be considered for parole."

Section 3. Section 95-3214, R.C.M. 1947, is amended to read as follows:

**"95-3214. Parole authority and procedure.** (1) The board shall release on parole, by appropriate order, any person confined in the Montana state prison, except persons under sentence of death *and persons serving sentences imposed under 95-2206(3)*, when in its opinion there is reasonable probability that the prisoner can be released without detriment to himself or to the community, provided:

(a) *that* no convict serving a time sentence *may* be paroled until he has served at least one-quarter of his full term, less good time allowances off, as provided in 80-1905; except that no convict designated a persistent felony offender under 95-2206.5 may be paroled until he has served at least one-third of his full term, less good time allowances off, as provided in 80-1905. A first offender serving a time sentence may be paroled after he has served, upon his term of sentence, 12 ½ years. A persistent felony offender as defined in 95-2206.5 may be paroled after he has served, upon his term of sentence, 17 ½ years.

(b) *no* convict serving a life sentence *may* be paroled until he has served 30 years, less the good time allowances off, as provided in 80-1905.

(2) Within 2 months after his admission and at such intervals thereafter as it determines, the board shall consider all pertinent information regarding each prisoner, including the circumstances of his offense, his previous social history and criminal record, his conduct, employment, and attitude in prison, and the reports of and physical and mental examinations which have been made.

(3) Before ordering the parole of any prisoner, the board shall interview him. A parole shall be ordered only for the best interest of society, not as an award of clemency or a reduction of sentence or pardon. A prisoner shall be placed on parole only when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal custody of the insti-

tution from which he was released but shall be subject to the orders of the board.

(4) The board may adopt other rules it considers proper or necessary with respect to the eligibility of prisoners for parole and the conduct of parole hearings or conditions to be imposed upon parolees. When an order for parole is issued, it shall recite the conditions thereof."

Approved May 13, 1977.

## CHAPTER NO. 581

### AN ACT TO PROVIDE FOR A PILOT PROJECT OF EXPANDED DAY-CARE ASSISTANCE.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. **Expanded day-care assistance.** (1) In addition to the payments authorized under 10-812 and Title XX of the Social Security Act the department of social and rehabilitation services shall in the biennium ending June 30, 1979 pay to a licensed day-care facility located in region V of the human service planning areas, for each child eligible to receive public financial support, a portion of the total cost of day care as determined under subsection (2) of this section.

(2) The level of expanded day-care assistance provided under this act shall decrease as family income increases according to the following criteria:

(a) A family whose family income is 150% of the AFDC level is eligible for 100% of day-care costs.

(b) A family whose family income is equal to or above 58% of the state's median income for families of like size is not eligible to receive expanded day-care assistance.

(c) A family whose family income is between the levels established under (a) and (b) above is eligible to receive expanded day-care assistance established on a 12-step progressive scale establishing income brackets and support levels as nearly equal as possible. This additional day-care assistance will provide for the gradual assumption of the total cost of day care by the parents of eligible children based upon the 12 income brackets and support levels established.

(d) The department of social and rehabilitation services shall establish an expanded day-care assistance schedule for use in region V of the human service planning areas in accordance with the procedures of the Montana Administrative Procedure Act.

Section 2. **Cost — savings documented — report.** (1) The department of social and rehabilitation services shall develop a system to document and record any savings to the state as a result of expanded day-care assistance which enables a person receiving welfare assistance to gain and maintain employment.

(2) The department of social and rehabilitation services shall report to the 46th legislature the documented cost savings to the state for the biennium that is attributed to the pilot project of expanded day-care assistance established by this act.

Section 3. **Appropriation.** There is appropriated the sum of \$190,500 for the biennium ending June 30, 1979, from the general fund to the department of social and rehabilitation services to provide expanded day-care assistance by paying day-care costs to licensed day-care facilities for each child eligible to receive public financial support at the level established in accordance with section 1 and 10-812.

Section 4. **Termination.** This pilot project shall terminate June 30, 1979 or upon expenditure of funds appropriated by this act, whichever occurs first.

Approved May 13, 1977.

## CHAPTER NO. 582

### AN ACT TO REVISE AND CLARIFY THE MONTANA ECONOMIC LAND DEVELOPMENT ACT, REPEALING SECTIONS 84-7502 THROUGH 84-7526, R.C.M. 1947; ENACTING NEW SECTIONS IN LIEU THEREOF; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. There is a new R.C.M. section numbered 84-7502.1 that reads as follows:

**84-7502.1. Policy.** The legislature finds that as a state we currently face problems in development that not only cause concern for our future but also could cause cutbacks in our state's growth and proper development. Since many of these concerns are based on land use decisions, the state should develop a land use policy which will direct Montana's land use expansion through the enactment of a program establishing:

(1) local decision-making authority and control as primary factors in the determination of land use patterns;

(2) tax incentive programs for land and structures based on proper land use; providing tax benefits for proper land use and tax penalties for improper land use;

(3) a land use policy that does not impede economic progress, but which aids in the development of a program which will meet the social and economic challenges brought about through economic development;

(4) land use procedures, supplementary to zoning through a local control structure providing for continuous action, which do not conflict with Title 11, chapter 27, or Title 16, chapters 41 and 47, (or those chapters as they may be amended or recodified);